

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ERICA MENDOZA,

Plaintiff,

Case No. 20-cv-5761 (LGS)

- against -

**DEFENDANTS' ANSWER TO  
PLAINTIFF'S COMPLAINT**

KIDZ KORNER OF NEW ROCHELLE INC. (D/B/A  
KIDZ KORNER), KIDZ KORNER OF SCARSDALE  
INC. (D/B/A KIDZ KORNER), and IVY RENTZ,

Defendants.

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Defendants Kidz Korner of New Rochelle Inc. (D/B/A Kidz Korner), Kidz Korner of  
Scarsdale Inc. (D/B/A Kidz Korner), and Ivy Rentz ("Defendants"), by their attorneys, Offit  
Kurman P.A., as and for his answer to the complaint, filed by plaintiff Erica Mendoza  
("Plaintiff") on July 24, 2020 (Dkt. 1) ("Complaint"), states as follows:

1. Defendants deny the allegations contained in paragraph 1 of the Complaint.
2. Defendants deny the allegations contained in paragraph 2 of the Complaint.
3. Defendants deny the allegations contained in paragraph 3 of the Complaint.
4. Defendants deny the allegations contained in paragraph 4 of the Complaint.
5. Defendants deny the allegations contained in paragraph 5 of the Complaint.
6. Defendants deny the allegations contained in paragraph 6 of the Complaint.
7. Defendants deny the allegations contained in paragraph 7 of the Complaint.
8. Defendants deny the allegations contained in paragraph 8 of the Complaint.
9. Defendants deny the allegations contained in paragraph 9 of the Complaint.

10. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph 10 of the Complaint and refer all questions of law to the Court.
11. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph 11 of the Complaint and refer all questions of law to the Court.
12. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph 12 of the Complaint and refer all questions of law to the Court.
13. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph 13 of the Complaint and refer all questions of law to the Court.
14. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph 14 of the Complaint.
15. Defendants deny the allegations contained in paragraph 15 of the Complaint.
16. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph 16 of the Complaint and refer all questions of law to the Court.
17. Defendants deny the allegations contained in paragraph 17 of the Complaint.
18. Defendants admit the allegations contained in paragraph 18 of the Complaint.
19. Defendants admit the allegations contained in paragraph 19 of the Complaint.
20. Defendants deny the allegations contained in paragraph 20 of the Complaint, except  
Defendants deny knowledge or information sufficient to form a belief as to the

allegations in paragraph 20 regarding Ivy Rentz engaging “in business in this judicial district during the relevant time period” and Ivy Rentz being “sued individually in her capacity as owner, officer and/or agent of Defendant Corporations.” Defendants admit that Ivy Rentz determined the wages and compensation of Plaintiff. Defendants refer all questions of law to the Court.

21. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph 21 of the Complaint, as Joy farmer is no longer a defendant in this action.
22. Defendants deny the allegations contained in paragraph 22 of the Complaint.
23. Defendants deny the allegations contained in paragraph 23 of the Complaint.
24. Defendants deny the allegations contained in paragraph 24 of the Complaint.
25. Defendants deny the allegations contained in paragraph 25 of the Complaint.
26. Defendants deny the allegations contained in paragraph 26 of the Complaint and refer all questions of law to the Court.
27. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph 27 of the Complaint.
28. Defendants deny the allegations contained in paragraph 28, and 28(a)-(h), as Joy Farmer is no longer a defendant in this action.
29. Defendants deny the allegations contained in paragraph 29 of the Complaint and refer all questions of law to the Court.
30. Defendants deny the allegations contained in paragraph 30 of the Complaint.
31. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph 31 of the Complaint.

32. Defendants deny the allegations contained in paragraph 32 of the Complaint.
33. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph 33 of the Complaint and refer all questions of law to the Court.
34. Defendants deny the allegations contained in paragraph 34 of the Complaint.
35. Defendants deny the allegations contained in paragraph 35 of the Complaint.
36. Defendants deny knowledge or information sufficient to form a belief as to allegations contained in paragraph 36 of the Complaint.
37. Defendants deny the allegations contained in paragraph 37 of the Complaint.
38. Defendants deny the allegations contained in paragraph 38 of the Complaint.
39. Defendants deny the allegations contained in paragraph 39 of the Complaint, except admit that Plaintiff stopped working on March 22, 2019.
40. Defendants deny the allegations contained in paragraph 40 of the Complaint.
41. Defendants deny the allegations contained in paragraph 41 of the Complaint.
42. Defendants deny the allegations contained in paragraph 42 of the Complaint.
43. Defendants deny the allegations contained in paragraph 43 of the Complaint.
44. Defendants deny the allegations contained in paragraph 44 of the Complaint and refer all questions of law to the Court.
45. Defendants deny the allegations contained in paragraph 45 of the Complaint and refer all questions of law to the Court.
46. Defendants deny the allegations contained in paragraph 46 of the Complaint and refer all questions of law to the Court.
47. Defendants deny the allegations contained in paragraph 47 of the Complaint.

48. Defendants deny the allegations contained in paragraph 48 of the Complaint and refer all questions of law to the Court.

49. Defendants deny the allegations contained in paragraph 49 of the Complaint.

50. Defendants deny the allegations contained in paragraph 50 of the Complaint and refer all questions of law to the Court.

51. Defendants deny the allegations contained in paragraph 51 of the Complaint.

52. Defendants deny the allegations contained in paragraph 52 of the Complaint and refer all questions of law to the Court.

53. Defendants deny the allegations contained in paragraph 53 of the Complaint.

54. Defendants deny the allegations contained in paragraph 54 of the Complaint and refer all questions of law to the Court.

55. Defendants deny the allegations contained in paragraph 55 of the Complaint and refer all questions of law to the Court.

56. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph 56 of the Complaint and refers all questions of law to the Court.

57. Defendants deny the allegations contained in paragraph 57 of the Complaint and refers all questions of law to the Court.

58. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph 58 of the Complaint.

#### FIRST CAUSE OF ACTION

59. Defendants repeat and reasserts all responses prior to this paragraph 59 as if fully set forth herein.

60. Defendants deny the allegations contained in paragraph 60 of the Complaint and refer all questions of law to the Court.

61. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph 61 of the Complaint.

62. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph 62 of the Complaint and refers all questions of law to the Court.

63. Defendants deny the allegations contained in paragraph 63 of the Complaint and refer all questions of law to the Court.

64. Defendants deny the allegations contained in paragraph 64 of the Complaint and refer all questions of law to the Court.

65. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph 65 of the Complaint.

SECOND CAUSE OF ACTION

66. Defendants repeat and reassert all responses prior to this paragraph 66 as if fully set forth herein.

67. Defendants deny the allegations contained in paragraph 67 of the Complaint and refer all questions of law to the Court.

68. Defendants deny the allegations contained in paragraph 68 of the Complaint and refer all questions of law to the Court.

69. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph 69 of the Complaint.

THIRD CAUSE OF ACTION

70. Defendants repeat and reassert all responses prior to this paragraph 70 as if fully set forth herein.

71. Defendants deny the allegations contained in paragraph 71 of the Complaint and refer all questions of law to the Court.

72. Defendants deny the allegations contained in paragraph 72 of the Complaint and refer all questions of law to the Court.

73. Defendants deny the allegations contained in paragraph 73 of the Complaint and refer all questions of law to the Court.

74. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph 74 of the Complaint.

FOURTH CAUSE OF ACTION

75. Defendants repeat and reassert all responses prior to this paragraph 75 as if fully set forth herein.

76. Defendants deny the allegations contained in paragraph 76 of the Complaint and refer all questions of law to the Court.

77. Defendants deny the allegations contained in paragraph 77 of the Complaint and refer all questions of law to the Court.

78. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph 78 of the Complaint.

FIFTH CAUSE OF ACTION

79. Defendants repeat and reassert all responses prior to this paragraph 79 as if fully set forth herein.

80. Defendants deny the allegations contained in paragraph 80 of the Complaint and refer all questions of law to the Court.

81. Defendants deny the allegations contained in paragraph 81 of the Complaint.

SIXTH CAUSE OF ACTION

82. Defendants repeat and reassert all responses prior to this paragraph 82 as if fully set forth herein.

83. Defendants deny the allegations contained in paragraph 83 of the Complaint and refer all questions of law to the Court.

84. Defendants deny the allegations contained in paragraph 84 of the Complaint.

SEVENTH CAUSE OF ACTION

85. Defendants repeat and reassert all responses prior to this paragraph 85 as if fully set forth herein.

86. Defendants deny the allegations contained in paragraph 86 of the Complaint and refer all questions of law to the Court.

87. Defendants deny the allegations contained in paragraph 87 of the Complaint and refer all questions of law to the Court.

88. Defendants deny the allegations contained in paragraph 88 of the Complaint and refers all questions of law to the Court.

89. Defendants deny the allegations contained in paragraph 89 of the Complaint and refer all questions of law to the Court.

90. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph 90 of the Complaint.



EIGHTH CAUSE OF ACTION

91. Defendants repeat and reassert all responses prior to this paragraph 91 as if fully set forth herein.

92. Defendants deny the allegations contained in paragraph 92 of the Complaint and refer all questions of law to the Court.

93. Defendants deny the allegations contained in paragraph 93 of the Complaint.

AND FOR A FIRST AFFIRMATIVE DEFENSE

94. One or more of the causes of action in the Complaint fails to state a cause of action upon which any relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

95. One or more of Plaintiff's claims are barred and/or reduced by the doctrine of Equitable Estoppel.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

96. One or more of Plaintiff's claims are barred and/or reduced by the doctrine of Laches.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

97. One or more of Plaintiff's claims are barred and/or reduced by Plaintiff's failure to mitigate damages.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

98. One or more of Plaintiff's claims are barred and/or reduced by the doctrine of Unclean Hands.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

99. One or more of Plaintiff's claims are barred and/or reduced as Plaintiff did not work at Kidz Korner of Scarsdale.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

100. Plaintiff is exempt from coverage under the Fair Labor Standards Act (“FLSA”) and/or the New York Labor Law (“NYLL”).

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE

101. If one or more Defendants are found to have violated the FLSA and/or the NYLL, such violation(s) was not willful.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

102. If one or more Defendants are found to have violated the FLSA and/or the NYLL, such violation is mitigated by one or more Defendants acting in good faith pursuant to §11 of the Portal-to-Portal Act, 29 U.S.C. § 251 et seq.

AS AND FOR A TENTH AFFIRMATIVE DEFENSE

103. One or more of Plaintiff’s claims are barred and/or reduced by the applicable statute of limitations.

AS AND FOR AN ELEVENTH AFFIRMATIVE DEFENSE

104. Plaintiff was never an employee of Defendant Kidz Korner of Scarsdale and therefore is not entitled to recover any damages or sums of money owed, if any, from Defendant Kidz Korner of Scarsdale, and if it is determined that Defendant Kidz Korner of Scarsdale is liable for any attorney’s fees in conjunction with this lawsuit, Defendant Kidz Korner of Scarsdale is not responsible for payment of any of Plaintiff’s attorney’s fees incurred prosecuting and/or settling claims herein on behalf of Plaintiff.

AS AND FOR A TWELFTH AFFIRMATIVE DEFENSE

105. One or more of Plaintiff's claims are barred and/or reduced by the Doctrine of Acquiescence.

AS AND FOR A THIRTEENTH AFFIRMATIVE DEFENSE

106. This action should not be certified as a collective action as this action does not meet the standard required for certification of such action.

AS AND FOR A FOURTEENTH AFFIRMATIVE DEFENSE

107. One or more of Plaintiff's claims are barred and/or reduced by the Doctrine of After-Acquired Evidence.

AS AND FOR A FIFTEENTH AFFIRMATIVE DEFENSE

108. One or more of Plaintiff's claims are barred and/or reduced by Plaintiff's failure to document and/or record, in whole or in part, her daily hours worked, weekly hours worked, overtime hours worked (if any), spread of hours payments (if owed), hourly rate of pay, overtime rate of pay, and any additional documentation and/or information that forms the basis of her claims.

AS AND FOR A SIXTEENTH AFFIRMATIVE DEFENSE

109. One or more of Plaintiff's claims are barred and/or reduced, as Plaintiff seeks recovery for time that is not compensable time under the FLSA and/or NYLL.

AS AND FOR A SEVENTEENTH AFFIRMATIVE DEFENSE

110. Plaintiff is not entitled to punitive/liquidated damages, as Defendants did not act or fail to act in a manner sufficient to give rise to punitive/liquidated damages liability.

AS AND FOR AN EIGHTEENTH AFFIRMATIVE DEFENSE

111. To the extent Plaintiff seeks damages not recoverable under the FLSA and/or NYLL, Plaintiff is barred from such recovery.

AS AND FOR A NINETEENTH AFFIRMATIVE DEFENSE

112. Defendants are entitled to offset monies or other consideration paid or provided to Plaintiff by Defendants for periods in which Plaintiff did not work and/or were not engaged to work.

AS AND FOR A TWENTIETH AFFIRMATIVE DEFENSE

113. One or more of Plaintiff's claims are barred and/or reduced, as Plaintiff has been paid all monies to which she is entitled to under the FLSA and NYLL.

AS AND FOR A TWENTY FIRST AFFIRMATIVE DEFENSE

114. Defendants reserve the right to assert additional affirmative defenses based upon further discovery.

WHEREFORE, Defendants pray for judgment in their favor and against Plaintiff:

- a) Dismissing the Complaint, in its entirety, with prejudice;
- b) Awarding all costs of this action and reasonable attorneys' fees to Defendants for the costs and fees incurred in the defense of this action; and

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c) Such other and further relief as this Court deems just and proper.

Dated: New York, New York  
October 20, 2020

OFFIT KURMAN, P.A.

A handwritten signature in blue ink, appearing to read 'Rod Biermann', with a long horizontal line extending to the right.

By: \_\_\_\_\_  
Rod Biermann (RB 4724)  
*Attorneys for Defendants*  
590 Madison Avenue, 6th Floor  
New York, NY 10022  
Tel: 212-545-1900  
Fax: 212-545-1656  
Email: rbiermann@offitkurman.com